

Assembly Bill No. 2096

CHAPTER 530

An act to amend Sections 987.65, 987.69, 987.71, 987.76, 1000.2, 1003.4, 1003.14, 1003.16, 1004.1, 1004.2, and 1004.4 of, and to repeal Sections 1003.5 and 1003.9 of, the Military and Veterans Code, relating to veterans, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 1998. Filed
with Secretary of State September 17, 1998.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2096, Margett. Veterans: Cal-Vet loans.

(1) Existing law provides for farm and home purchase benefits for qualifying veterans under the Veterans' Farm and Home Purchase Act of 1974, and subsequent acts. For these purposes, existing law requires the purchaser to make an initial payment of at least 5% of the selling price of the property and, where the purchase price is equal to or less than \$60,000, existing law requires the purchaser to make an initial payment of at least 3% of the selling price of the property.

This bill instead would require the purchaser of the property to make an initial payment of at least 2% of the selling price of the property.

(2) Existing law authorizes the Department of Veterans Affairs to waive the initial payment in any case where the value of the property, as determined by the department appraisal, equals the amount to be paid by the department plus at least 5% where the purchase price is greater than \$60,000. In addition, existing law authorizes the department, in the case of homes where the purchase price is equal to or less than \$60,000, to waive the initial payment where the appraised value of the property equals the amount to be paid by the department plus at least 3%.

This bill instead would authorize the department to waive the initial payment in any case where the value of the property, as determined by the department from an appraisal, equals the amount to be paid by the department plus at least 5%. In addition, the bill would require the purchaser, in the case of a purchase requiring a loan guaranty by the United States Department of Veterans Affairs, to pay the loan guaranty fee, which may be added to the loan amount. The bill also would authorize the department to require the purchaser to pay a loan origination fee, not to exceed 1% of the loan amount, which also may be added to the loan amount.

The bill would also require the department, when a purchaser makes an initial payment of less than 20% of the selling price of the property, to take prudent measures to minimize losses from loan defaults and loan delinquencies and to charge fees to cover the costs, as determined by the department, of any loan guaranty, primary mortgage insurance, or other similar arrangement. The bill would authorize the fees to be included in the amount of the loan, collected in advance, or collected as part of the monthly payment.

(3) Existing law requires the department to fix the selling price of a property, when selling the property to a veteran, by adding to the purchase price of the property all expenses incurred and estimated to be incurred by the department in relation to the property.

This bill would authorize, instead of require, the department to add those costs to the selling price.

(4) Existing law makes the department the sole judge of certain matters relating to the department's sale of property to veterans, including the legality or validity of taxes, assessments, charges, or encumbrances, and the amount necessary to be paid in satisfaction or discharge thereof.

This bill would make the department the sole judge of the legality or validity of insurance premiums and guaranty fees, and the amount necessary to be paid in satisfaction or discharge thereof. The bill would also make the department the sole judge of the amount of loan insurance or guaranty to be placed upon the veteran's liability for repayment of the veteran's real estate contract and the amount necessary to be paid by the veteran or the department for the premiums or fees for that insurance or guaranty.

(5) Existing law requires the department, relating to specified debentures, to establish, fix, and collect interest, at a rate sufficient to pay and provide for, among other things, an additional aggregate sum as may be provided in any resolution of issuance, as specified.

This bill would authorize those rates to be either fixed or variable interest rates. In addition, the bill would delete the provision specified above that requires the department to establish, fix, and collect interest, at a rate sufficient to pay and provide for an additional aggregate sum as may be provided in any resolution of issuance, as specified.

(6) Existing law authorizes the department to issue refunding debentures in a principal amount sufficient to pay other, outstanding debentures and any expenses incidental to the calling, retiring, or paying of the outstanding debentures.

This bill, additionally, would authorize the department to issue refunding debentures to pay outstanding obligations issued by the state to finance programs of the department.

(7) The bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 987.65 of the Military and Veterans Code is amended to read:

987.65. (a) The purchase price of a home to the department, or the sum to be expended by the department pursuant to a contract for the construction of a dwelling house and other improvements, or the purchase price of a mobilehome sited on a lot owned by the purchaser and installed on a foundation system pursuant to Section 18551 of the Health and Safety Code, or the purchase price of a mobilehome converted to a fixture and improvement to the underlying real property in a mobilehome park that has been converted to a resident-owned subdivision, cooperative, condominium, or nonprofit corporation as set forth in Section 18555 of the Health and Safety Code, shall not exceed two hundred fifty thousand dollars (\$250,000).

(b) The purchase price of a mobilehome that is to be sited in a mobilehome park, as defined in Section 18214 of the Health and Safety Code, in addition to any assistance provided by the department to a veteran pursuant to subdivision (e) of Section 987.85, shall not exceed seventy thousand dollars (\$70,000).

(c) A veteran purchasing the home may advance, subject to Section 987.64, the difference between the total price or cost of the home and the sum of the purchase price of the home to the department and any amount the department adds, under Section 987.69, to the purchase price of the home in fixing the selling price to the veteran. Any amount of the purchase price to the department may be provided by funds from participation contracts or revenue bonds.

(d) The purchase price of a farm to the department shall not exceed three hundred thousand dollars (\$300,000). A veteran purchasing the farm may advance the difference between the total price of the farm, or the cost of the dwelling and improvements to be constructed on a farm under a contract, and the sum of the purchase price to the department or contract price to the department and any amount that the department adds, under Section 987.69, to the purchase or contract price to the department in fixing the selling price of the farm to the veteran.

SEC. 2. Section 987.69 of the Military and Veterans Code is amended to read:

987.69. The department shall then enter into a contract with the veteran for the sale of the property to the veteran. The department shall fix the selling price of the property as the purchase price thereof, as the total cost of improvements constructed, or as the value of the property, as determined by the department when the property is acquired by the department in a manner other than by purchase, to which the department may add all expenses incurred and estimated

to be incurred by the department in relation thereto, inclusive of interest, administration, appraisals, examination of title, insurance premiums, mortgage guaranty fees, origination fees, incidental expenses, and the sum deemed necessary to meet unforeseen contingencies. In the case of real property acquired for the purpose of constructing improvements thereon, the department shall forthwith after acquiring that real property enter into the contract with the veteran authorized by this section at a selling price that does not exceed the department's appraised value of the land, if the loan is to include the value of the land, and the amount of the department's appraised value of the improvements to be constructed thereon and any of the other additions herein authorized. After the execution of the contract between the veteran and the department and the making of the initial payment thereon the department shall be authorized to pay the cost of the improvements contracted to be constructed on the real property, making progress payments thereon in the amounts and at those times that the department approves. The department shall, upon written request of the veteran and his or her contractor, have authority to approve additions to or deletions from the improvements contracted to be constructed and any savings affected or added cost incurred shall be deducted from or added to the amount due the department by the veteran under the terms of his or her contract.

Where the department enters into a contract for the sale of property on trust to an Indian veteran, the contract shall include the following conditions:

(a) The dwelling house or other improvements contracted to be constructed on trust land shall be completed in compliance with the standards of the building code applicable on the trust land. If there is no building code in force on the trust land, the applicable standards shall be those of the building code of the county in which the trust land is located.

(b) On the completion of construction, the Indian veteran shall provide to the department an inspection certificate from a qualified building inspector certifying that the dwelling house or other improvements comply with the standards of the building code as required by subdivision (a).

SEC. 3. Section 987.71 of the Military and Veterans Code is amended to read:

987.71. (a) The purchaser shall make an initial payment of at least 2 percent of the selling price of the property. The department may waive the initial payment in any case where the value of the property as determined by the department from an appraisal equals the amount to be paid by the department plus at least 5 percent. In the case of a purchase requiring a loan guaranty by the United States Department of Veterans Affairs, the purchaser shall pay the loan guaranty fee, which may be added to the loan amount. The

department may require the purchaser to pay a loan origination fee, not to exceed 1 percent of the loan amount, which may be added to the loan amount.

(b) The balance of the loan amount may be amortized over a period fixed by the department, not exceeding 40 years for farms or homes and not exceeding 30 years for mobilehomes located in mobilehome parks, as defined in Section 18214 of the Health and Safety Code, together with interest thereon at the rate determined by the department pursuant to Section 987.87 for these amortization purposes.

(c) The department may, in order to allow the veteran to purchase the home selected without incurring excessive monthly payments, at the time of initial purchase, postpone the commencement of payment of the principal balance for not to exceed five years if the veteran's current income meets the standards for purchase on these terms and if the department determines, in accordance with previously established criteria for these determinations, that the veteran's income can reasonably be expected to increase sufficiently within the five-year period to make the transition to fully amortized principal and interest payments, so long as the total term of the contract of purchase does not exceed 40 years, or 30 years where the contract relates to a mobilehome located in a mobilehome park, as defined in Section 18214 of the Health and Safety Code.

(d) The purchaser on any installment date may pay any or all installments still remaining unpaid.

(e) In any individual case, the department may for good cause postpone, from time to time, upon terms the department determines to be proper, the payment of the whole or any part of any installment of the purchase price or interest thereon.

(f) Each installment shall include an amount sufficient to pay the principal and interest on the participation contract to which the interest of the department is subject, and any amount as may be required by a covenant or provision contained in any resolution of issuance.

(g) When a purchaser makes an initial payment of less than 20 percent of the selling price of the property, the department shall do all of the following:

(1) Take prudent measures to minimize losses from loan defaults and loan delinquencies.

(2) (A) Ensure the continued financial solvency of the loan program by charging fees to cover the costs, as determined by the department, of any loan guaranty, primary mortgage insurance, or other similar arrangement.

(B) Fees charged under this paragraph may be included in the amount of the loan, collected in advance, or collected as part of the monthly payment.

SEC. 4. Section 987.76 of the Military and Veterans Code is amended to read:

987.76. Notwithstanding Section 6157 of the Government Code, the department shall be the sole judge of all of the following:

(a) The legality or validity of taxes, assessments, charges, insurance premiums, guaranty fees, or encumbrances, and the amount necessary to be paid in satisfaction or discharge thereof.

(b) The amount of insurance to be placed upon the buildings, fences, other permanent improvements, and crops and the amount necessary to be paid for the premiums for that insurance.

(c) The necessity and nature of the work required to keep the buildings, fences, and other improvements in good order and repair, and the amount to be paid therefor.

(d) The amount of loan insurance or guaranty to be placed upon the veteran's liability for repayment of the veteran's contract and the amount necessary to be paid by the veteran or the department for the premiums or fees for that insurance or guaranty.

SEC. 5. Section 1000.2 of the Military and Veterans Code is amended to read:

1000.2. The following terms, wherever used or referred to in this chapter, shall have the following meanings, respectively, unless a different meaning appears from the context:

(a) "Department" means the Department of Veterans Affairs of the State of California, as the same is constituted by the provisions of Section 63 of this code, and any successor to that office.

(b) "Veterans' Debenture Finance Committee" means the committee constituted pursuant to the provisions of Section 1000.3 of this code.

(c) "Debenture" means any written evidence of any obligation issued by the department pursuant to this chapter for the financing of programs of the department, or for the refinancing of obligations issued by the department or by the state for those programs, payment of which is secured by a pledge of revenues, as provided in this chapter, irrespective of the form of the obligation.

(d) "Debenture holder" means any person who shall be the bearer of any outstanding debenture registered to bearer not registered, or the registered owner of any outstanding debenture which shall at the time be registered other than to bearer.

(e) "Veteran" shall have the meaning set forth in Section 980 of this code.

(f) "Pledged contracts" means contracts of sale entered into by the department and veterans covering any property purchased or acquired by the department from the proceeds of debentures as may be provided in any resolution of issuance and to the extent therein provided.



(g) “Surplus money” means funds not required to meet any immediate demand which has accrued against the Veterans’ Farm and Home Building Fund of 1943 without regard to fiscal years.

(h) “Revenues” means all income and receipts of the department from the pledged contracts, including, without limiting the generality of the foregoing, all payments received in account of the selling price, interest thereon, expenses and all other charges added to the selling price, insurance proceeds collected on account of loss, damage or injury to the property, life insurance or disability insurance proceeds received by the department, and all other receipts of whatsoever kind or nature arising out of or incident to the pledged contracts.

The term “revenues” also includes all interest or other income from any investment of any moneys in any fund established under a resolution of issuance for the payment of the principal of, or interest or premium on, debentures.

(i) “Resolution of issuance” means a resolution of the department, approved by the Veterans’ Debenture Finance Committee, pursuant to which debentures are issued, and any amendatory or supplemental resolutions.

(j) “Person” means any individual, firm, corporation, association, partnership, limited liability company, trust, business trust, or receiver or trustee or conservator for any thereof, but does not include this state or any public corporation, political subdivision, city, county, district or agency of this state.

SEC. 6. Section 1003.4 of the Military and Veterans Code is amended to read:

1003.4. The department shall at all times, so long as any of the debentures are outstanding, establish, fix, and collect interest at the rate or rates, which may be fixed interest rates or variable interest rates, on the unpaid balance on all pledged contracts to produce an amount that, together with income derived from investments, will yield revenues that will, in the aggregate, be sufficient with respect to the then immediately ensuing fiscal year to pay and provide for all of the following:

(a) Interest to become due and payable in that fiscal year on all debentures.

(b) The principal amount of all serial debentures maturing by their terms during that fiscal year.

(c) The aggregate minimum sinking fund payments, if any, required to be made for that fiscal year on account of debentures then outstanding.

(d) Those sums as may be required as reserve fund payments due in that fiscal year.

(e) The estimated expenses of maintenance, operation, and administration of the department as provided in the budget of the department for that fiscal year.

SEC. 7. Section 1003.5 of the Military and Veterans Code is repealed.

SEC. 8. Section 1003.9 of the Military and Veterans Code is repealed.

SEC. 9. Section 1003.14 of the Military and Veterans Code is amended to read:

1003.14. Debentures authorized under any resolution of issuance approved by the Veterans' Debenture Finance Committee shall be sold by the State Treasurer upon the written request of the department at public or private sale, as determined by the department with the approval of the Veterans' Debenture Finance Committee, and at those times and in those amounts that the department deems necessary to provide sufficient funds for the purposes for which the debentures are then authorized. Successive issues of debentures within the limits of the authorization for the issuance of debentures, if any of those limitations are included in the proceedings for the issuance of the debentures, shall be equally and regularly secured without preference, priority or distinction as to security or otherwise by reason of time of issue, or sale, except as debentures of various series may differ with respect to dates, numbers, interest rates, maturity, redemption provisions, sinking fund provisions, or otherwise as expressly authorized in any resolution of issuance.

SEC. 10. Section 1003.16 of the Military and Veterans Code is amended to read:

1003.16. (a) Notwithstanding any other provision of this chapter, and in lieu of a pledge of revenues as security for any debentures issued pursuant to this chapter, the department may assign or pledge an undivided interest in the assets of the Veterans' Farm and Home Building Fund of 1943 as security for the debentures. Undivided interest so assigned or pledged shall not exceed the amount of principal and interest of the debentures secured thereby, and shall be secondary and subordinate to any interest or right of the people and the holders of general obligation bonds in the fund under any general obligation veterans bond act.

(b) In that event, the department shall deposit the proceeds of the sale of the debentures and the revenues therefrom in the Veterans' Farm and Home Building Fund of 1943, and money may be withdrawn therefrom in accordance with law upon requisition of the department for the purpose of carrying out the provisions of this chapter and of the Veterans' Farm and Home Purchase Act of 1943 and the Veterans' Farm and Home Purchase Act of 1974. The department may create any accounts or funds within the Veterans' Farm and Home Building Fund of 1943 and the Veterans' Debenture Revenue Fund that may be appropriate or desirable for carrying out the provisions of this section.

(c) Further, in that event, and notwithstanding Section 1006.15, the interest rates on veterans' purchase contracts shall be established as provided in Section 987.87.

SEC. 11. Section 1004.1 of the Military and Veterans Code is amended to read:

1004.1. The department, subject to the approval of the Veterans' Debenture Finance Committee, may provide for the issuance, sale, or exchange of refunding debentures for the purpose of redeeming or retiring any debentures issued under this chapter or any obligations issued by the state to finance programs of the department. All provisions of this chapter applicable to the issuance of debentures are applicable to the funding or refunding debentures and to the issuance, sale or exchange thereof. The department with the approval of the Veterans' Debenture Finance Committee may adopt a resolution or resolutions of issuance or supplemental resolutions authorizing the issuance of refunding debentures and fixing the terms and conditions thereof.

SEC. 12. Section 1004.2 of the Military and Veterans Code is amended to read:

1004.2. Refunding debentures may be issued in a principal amount sufficient to provide funds for the payment of all debentures or obligations to be refunded thereby and in addition to the payment of all expenses incident to the calling, retiring or paying of outstanding debentures or obligations and the issuance of refunding debentures. Those expenses include any amount necessary to be made available for the payment of interest upon refunding debentures from the date of sale thereof to the date of payment of the debentures or obligations to be refunded, or to the date upon which the debentures or obligations to be refunded will be paid pursuant to the call thereof or agreement with the holders thereof, and the premium, if any, necessary to be paid in order to call or retire the outstanding debentures or obligations and the interest accruing thereon to the date of the call or retirement.

SEC. 13. Section 1004.4 of the Military and Veterans Code is amended to read:

1004.4. The department may from time to time or at any time sell or exchange refunding debentures for the purpose of retiring, paying or refunding either all or part of the outstanding debentures or obligations, or of one or more series thereof, as it deems advisable. Refunding debentures may be issued and delivered as outstanding debentures or obligations to be refunded thereby, if the debentures are mature or are about to mature or are subject to call or redemption, or if the retirement thereof has been assured by consent of the holders thereof. Refunding debentures may be delivered in whole or in part in exchange for outstanding debentures or obligations with the consent of the holders thereof.



SEC. 14. Section 8 of this act, which repeals Section 1003.9 of the Military and Veterans Code, shall become operative only if Assembly Bill 2097 of the 1997–98 Regular Session is enacted and becomes operative.

SEC. 15. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the Department of Veterans Affairs to enable more veterans to obtain loans under the Farm and Home Purchase Act of 1974, to make necessary technical changes with respect to the Cal-Vet loan program, and to ensure that the solvency of the Farm and Home Building Fund of 1943 is preserved, at the earliest possible time, it is necessary that this act take effect immediately.

